

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

FILED IN CLERK'S OFFICE
U.S.D.C. - Gainesvillefor the
Northern District of Georgia

OCT 20 2016

Teklom Michael Abraham

JAMES N. HATTEN, Clerk

By: *[Signature]* Deputy Clerk*Petitioner*

v.

2:16-CV-0256

Case No.

(Supplied by Clerk of Court)

US ATTORNEY GENERAL, US SECRETARY OF
HOMELAND SECURITY, FIELD OFFICE DIRECTOR -
ATLANTA REGION, STEWART DC WARDEN*Respondent*

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Teklom Michael Abraham
(b) Other names you have used: None
2. Place of confinement:
(a) Name of institution: Stewart Detention Center
(b) Address: 146 CCA Road
Lumpkin, GA 31815
(c) Your identification number: A# 208-754-077
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

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Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Department of Homeland Security, Immigration and Customs Enforcement (ICE), Stewart Detention Center, 146 CCA Road, Lumpkin, GA 31815(b) Docket number, case number, or opinion number: A208-754-077(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

I requested ICE to release me from custody on parole, but my request was denied. I requested again but I was not given any decision from ICE. I have been in immigration custody since December 29, 2015 and my case has been pending with the immigration court since January 29, 2016.

(d) Date of the decision or action: 04/06/2016**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not appeal: Because the decision of ICE to deny parole to arriving aliens is not appealed to the immigration court.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: Second appeal is not applicable to me.

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not file a third appeal: Third appeal is not applicable to me.

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 12/29/2015
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: N/A
- (3) Result: N/A
- (4) Date of result: _____
- (5) Issues raised: I did not file appeal with the Board of Immigration Appeals because no decision was made in my case. I was scheduled to have a hearing before the immigration court on the merits of my case, but the immigration court canceled my hearing for unknown reason and rescheduled my case to February 14, 2017.

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____

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- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: I have been detained by ICE since December 29, 2015 and my case has been pending since January 29, 2016. It has been almost 10 months since I was detained by ICE. My detention was unreasonably prolonged.

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

I am filing this petition because I have been detained by the Department of Homeland Security since December 29, 2015 and my case has been pending before the Stewart immigration court in Lumpkin, GA since January 29, 2016. My hearing on the merits of my case was scheduled for October 04, 2016. However, due to no fault of my own, my hearing was canceled by the immigration court and my case was continued to next year. My case has been pending with the immigration court for last eight and half months and I still have not received any decision yet. My detention was unreasonably prolonged.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes☒ No**GROUND TWO: N/A**(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

N/A

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes☒ No**GROUND THREE: N/A**(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

N/A

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes☒ No

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GROUND FOUR: N/A

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

N/A

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: _____

Request for Relief

15. State exactly what you want the court to do: I am respectfully requesting this court to grant my petition for habeas corpus and allow me to have a bond hearing before the the Stewart Immigration Court.


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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 10/19/2016

Abraham 
Signature of Petitioner

Signature of Attorney or other authorized person, if any